

REMARKS

The Examiner has rejected Claims 1-3, 20, 22, 24, 28 and 30 under 35 USC 102 as anticipated by Haynes et al. It appears from the explanation of the rejection that Claim 29 was also meant to be included in the rejection. Haynes et al. show a pet house with a bed device and a tent type upper enclosure device. The upper enclosure is formed of a fabric material with sleeves extending diagonally from opposite corners through which normally straight flexible enclosure frame members extend and are bent into a hemispherical shape and held in such hemispherical shape by attachment to hooks at the corners of the bed device. The bed device includes a base frame 18, an upper frame 112 from which the fabric bed 40 is suspended, and right and left inclined support members 32 and 34, respectively, which springingly connect the base frame 18 and upper frame 112.

As previously indicated, Haynes et al. show normally straight flexible enclosure frame members that extend through sleeves formed in material forming the upper enclosure and which are bent into a hemispherical shape and held in such hemispherical shape by attachment to hooks at the corners of the upper frame of the bed device. Applicant had argued that Haynes et al. do not have a substantially rigid enclosure frame. The Examiner points out that when positioned in the sleeves 96 of the upper cover and bent and secured to the hooks 72 at the corners of the upper frame of the bed device, the enclosure frame is substantially rigid as it shapes and holds the shape for the upper enclosure. Applicant agrees that the flexible enclosure frame members, once bent and assembled by securing the ends of the flexible enclosure frame members to the corners of the bed device, become substantially rigid. Claims 1 and 29 have been amended to require that applicant's upper frame (corresponding to Haynes et al's enclosure frame) is "preshaped" and substantially "shape retaining". This is not shown or suggested by Haynes et al. As shown in applicant's drawings, applicant's upper frame is "preshaped" to define the space above the pet

supporting floor and maintains that shape whether or not secured to the pet supporting floor. In Haynes et al. the upper enclosure frame is shaped and becomes substantially rigid only when secured to the corners of the bed device. It does not retain its shape and becomes substantially flat again when removed from securement to the bed device. If one end of one flexible enclosure frame member becomes unattached to the bed device, that end of the flexible enclosure frame member will change its shape and the housing will no longer be rigid. Thus, the Haynes et al. enclosure frame is not “preshaped” and “shape retaining”, but is shaped only upon attachment to the bed device.

Haynes et al. do not suggest the use of a “preshaped” and “shape retaining” enclosure frame. As stated in Column 1, lines 41-45 of Haynes et al., it is an object of Haynes et al.’s invention to “provide a tent-like structure supported by frame members that conform to a hemispherical shape by attachment at both ends of each frame member and need not be formed.” Thus, an object of the Haynes et al. invention is that the enclosure frame members need not be formed into the shape required for the enclosure frame, i.e., the enclosure frame members are not “preshaped”, but rather, the enclosure frame is formed into the desired shape each time the device is assembled by bending the flexible enclosure frame members and attaching the ends of the flexible enclosure frame members to the bed device to hold them in bent condition. Thus, Haynes et al. do not suggest a “preshaped” and “shape retaining” enclosure frame because such an enclosure frame would not meet the stated objective of the invention. Claims 1 and 29 should be allowable.

The Examiner has rejected Claims 13, 24, and 30 under 35 USC 102 as anticipated by Haynes et al. Claim 13 requires “fastener portions secured to the fabric forming the pet supporting floor” and Claims 24 and 30 have been amended to recite that fastener portions are secured to the “fabric” pet supporting floor. Haynes et al.’s hooks are attached to the bed device

frame, not to the “fabric pet supporting floor”. There is nothing in Haynes et al. to show or suggest that a connection to the fabric pet supporting floor rather than to a rigid frame would hold the flexible enclosure frame members in the required tension. The Examiner states that “Haynes hooks 72, 74, 76, and 88 are attached to the supporting floor 40 since the hooks are essentially part of frame 12 and floor 40 is attached to the frame 12”. However, Claims 13, 24, and 30 all now require that the fastener portions are secured to the fabric pet supporting floor. This is different than being secured to the frame that supports the fabric pet supporting floor. Claims 13, 24, and 30 should be allowable.

The Examiner has rejected Claims 7-15, 18, 19, 21, 25, and 26 under 35 USC 103 as obvious from Haynes et al. in view of Ventura. With regard to Claims 7-12 and 18-19, the Examiner says that it would have been obvious “to modify Haynes’ frame structure with Ventura’s, by providing the legs 32, 34, 18 as separable pieces, in order to allow the user to completely deconstruct the frame accommodating a smaller travel or storage space.” Applicant again points out that one of the objects of Haynes et al. is “to provide a stable bed that is cushioned on springs without complex mechanisms.” In Column 6, line 44 to Column 7, line 9, Haynes et al. explain that “the two halves of frame support device are left intact since the section of the upper frame and the section of the base frame are still structurally connected by right inclined support member 32 and left inclined support member 34.” Haynes et al. explain that these members are welded and that with “this frame structure, panel 40 suspended across upper frame 12 . . . [and] all of upper frame 112, provides a spring support.” Thus, it would defeat one of the objects of the Haynes et al. invention to “modify Haynes’ frame structure with Ventura’s” and such substitution is taught away from in Haynes et al. and would not be obvious to one skilled in the art.

With regard to Claims 20 and 21, the Examiner says that "Ventura discloses a well known staking system utilizing a tie line 30 that can be coupled to various holes 48, 16 in a tab portion extending from the main frame. This system provides stability to the housing while in use. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Haynes' device by adding a tab portion and staking hole there through in order to provide stability to the housing. It is further recognized that the placement of such a hole in this case would obviously be anywhere that could provide a steadyng force to the system." The Examiner further says that the rejection is based on the wording of the claim and the claim reads "wherein the means for staking . . . is a tab extending from the at least one leg with a hole therein through which a stake can be positioned. The examiner maintains that Ventura discloses such a structure, as explained in the above rejection."

Ventura discloses a system of tie lines extending from the housing to stakes placed in the ground around, but spaced from, the housing. While the tie lines could be secured through holes in tabs extending from the housing, there is no suggestion that the tie lines be tied to the legs. The legs are positioned lower to the ground than Ventura's housing so tie lines would not provide stability to the housing if the tie lines are tied just to the legs. Further, applicant's Claims 20 and 21 require "means for staking the at least one leg to the supporting surface." Ventura's showing of tie lines secured to the housing and extending to stakes in the ground spaced from the housing does not disclose or suggest staking the legs directly to the ground. Applicant's claims require the legs to be staked, not the housing. Any tabs provided by Ventura would merely suggest a tie line extending through the tab, not a stake extending through the tab. Applicant's claim requires a stake extending through the tab. The provision of a tie line to extend from the structure to a stake is different from applicant's provision of a tab with a hole therethrough extending from a leg to accept a stake directly through the hole. No tie line is used

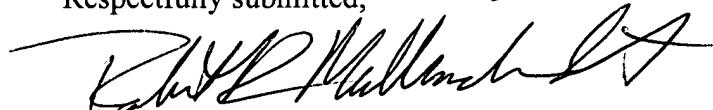
and the tie line as shown in Ventura is completely eliminated. This elimination of the tie line is not shown or suggested by the teaching and showing of a tie line in Ventura. Applicant's provision of a "tab extending from at least one leg with a hole therein through which a stake can be positioned" is not suggested by Ventura's tie lines, and would not result from passing Ventura's tie lines through tabs in Haynes et al's structure. Claims 20 and 21 have been amended so that Claim 20 now requires a tab and that Claim 21 now requires the tab to extend from a foot portion of the leg. Claims 20 and 21 should be allowable.

Favorable reconsideration is requested.

Please charge any additional fees due, or deposit any overpayments, to Deposit Account No. 20-0100 of the undersigned.

Dated this 13th day of February, 2006.

Respectfully submitted,



Robert R. Mallinckrodt
Attorney for Applicant
Registration No. 26,565

THORPE NORTH & WESTERN LLP
Customer No. 20,551
P.O. Box 1219
Sandy, Utah 84091-1219
(801) 566-6633

RRM/kcj